

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

YELLOWHAMMER FUND, on behalf of itself and its clients.	)	CASE NO. 2:23-cv-00450-MHT
	)	
	)	
Plaintiff,	)	CIVIL ACTION
	)	
v.	)	
	)	
ATTORNEY GENERAL OF ALABAMA STEVE MARSHALL, in his official capacity	)	
	)	
	)	
Defendant.	)	
WEST ALABAMA WOMEN'S CENTER, on behalf of themselves and their staff; et al.,	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
STEVE MARSHALL, in his official capacity as Alabama Attorney General,	)	
	)	
	)	
Defendant.	)	

**DECLARATION OF JENICE FOUNTAIN IN SUPPORT OF PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

I, JENICE FOUNTAIN, hereby declare under penalty of perjury that the following statements are true and correct:

1. I am the Executive Director of Yellowhammer Fund, a nonprofit organization incorporated under the laws of Alabama. Yellowhammer Fund is a

registered 501(c)(3) organization that provides support to pregnant people and their families in Alabama, Mississippi, and the Florida Panhandle. Our goal is to ensure that all people have access to the resources they need to make decisions about their bodies, families, and futures.

2. I am a resident of Birmingham and have lived in Alabama for 31 years. I have worked for Yellowhammer Fund since 2020. I have been in my current position with Yellowhammer Fund since June 2022. Previously, I served as a Family Justice Organizer with Yellowhammer Fund beginning in 2021.

3. As Executive Director, I am responsible for managing the organization's projects to ensure that we are fulfilling our mission. Additionally, I supervise staff members and serve as the primary liaison with our organization's Board of Directors and funders.

4. I am also the founder of Margins: Women Helping Black Women, which is an Alabama-based community aid organization that addresses the reproductive, financial, and material needs of low-income Black mothers and their children.

5. I provide the following testimony based on my personal knowledge.

**Yellowhammer Fund Seeks to Destigmatize Abortion Care and Communicate a Message of Love and Solidarity to All Pregnant People**

6. Yellowhammer Fund is a reproductive justice organization. Reproductive justice organizations are typically Black-led organizations that believe

all people have the right to decide whether to have children, the right to decide when to have children, and the right to parent the children they have in safe and healthy environments. We are committed to ensuring access to reproductive health care for all members of our community, regardless of race, income, location, age, gender, sexuality, disability, number of children, or status as a citizen.

7. Our organization was initially founded in 2017 in Tuscaloosa as an abortion fund. In this capacity, we provided financial and logistical support to pregnant Alabamians seeking abortion care both within and outside of Alabama, as well as people from other states seeking abortion care in Alabama.

8. Today, we continue to work to meet the needs of our community in Alabama by providing education, mutual aid, policy advocacy, and other support to parenting and pregnant people and their families. We have seven full-time employees and approximately twenty regular volunteers. Among other things, our volunteers attend events on behalf of Yellowhammer Fund, speak to community members about our mission, and distribute supplies.

9. Yellowhammer Fund's services are divided into two programs. First, our reproductive health services program provides free emergency contraception by mail, safer-sex kits, accurate and comprehensive sex education materials and information, pregnancy tests, and referrals for a wide range of sexual and reproductive health care. Second, our Family Justice Program provides basic

necessities to families, including diapers, food supplies, school supplies, period products, Plan B, cleaning supplies, hygiene products, and other items, regardless of their location or income level.

10. Additionally, Yellowhammer Fund engages in abortion advocacy, with the goal of educating the community about policy proposals and legislation that could impact access to abortion and other forms of reproductive healthcare for pregnant people in Alabama. During June and July 2023, we launched a Reproductive Justice Bus Tour across the state of Alabama to recognize the anniversary of the fall of *Roe v. Wade* and the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*. Throughout the tour, we distributed emergency contraception, condoms, pregnancy tests, diapers, and other supplies to communities across the state, spread awareness about our work and programs, and advocated for policies and laws that will increase access to reproductive healthcare. If not for Defendant's threats, we would have also used our bus tour to speak about our abortion fund and practical support activities and share information about the availability of lawful out-of-state abortion care. We would have provided information about our fund and shared the names of clinics in states where abortion is legal. Providing this information is critical to our mission of sharing resources with our community members about reproductive healthcare. The absence of this

information, as a result of Defendant's threats of prosecution, diluted the value of our bus tour and hampered our ability to achieve our mission.

11. Yellowhammer Fund envisions a society in which reproductive decisions can be made free from coercion, shame, or state interference. By providing material assistance, education, and mutual aid to pregnant and parenting Alabamians and their families, we send an important message to our community about individual dignity and each person's innate ability to make the decisions that are best for themselves and their families. We also seek to communicate to funding recipients, volunteers, employees, supporters, other abortion advocacy groups, and the general public the belief that all people deserve access to the resources necessary to make the decisions that are right for them.

12. We believe that abortion should be accessible. Our work sends a strong message that abortion should be destigmatized, that it is a necessary form of reproductive healthcare, and that it is critical to individual liberty and bodily autonomy.

13. Because Black, Indigenous, and other people of color are disproportionately impacted by abortion restrictions across Alabama, Yellowhammer Fund is also committed to increasing reproductive healthcare equity. Alabama has one of the highest maternal mortality rates in the country, and Black women in Alabama are more likely to experience pregnancy-related death and illness than their white

peers. In contrast to childbirth and pregnancy, abortion is extremely safe. Yellowhammer Fund believes that it is important to recognize the risk of pregnancy because it demonstrates the true costs of abortion bans. We strongly believe that access to reproductive healthcare, including abortion, is a racial justice issue and is crucial for improving maternal mortality rates in the Black community. Our work is grounded in the fight for racial equity. By providing support services to pregnant and parenting Alabamians, we seek to communicate that the Black community in Alabama deserves support to make their own decisions about their bodies, families, and futures.

**Before *Dobbs* and the Attorney General’s Threats, the Abortion Fund was a Core Component of Yellowhammer’s Mission**

14. Yellowhammer Fund was founded to meet a critical need in our community: the inaccessibility of abortion care for many pregnant Alabamians. When the organization was founded, the abortion fund was our only program. The fund provided financial support to pregnant people who were seeking abortion care. From 2017 to June 2022, when the U.S. Supreme Court decided *Dobbs*, most of the fund’s clients were Alabamians who needed support to pay for abortions in Alabama. However, we also supported Alabamians who needed to travel to other states for abortion care, and residents of neighboring states—including Louisiana and Mississippi—who traveled to Alabama to access abortion care.

15. In addition to providing funding to help pay for the cost of abortions, Yellowhammer Fund's abortion fund also provided practical support to help pregnant people with other needs, including lodging, travel costs, food, and childcare. The abortion fund also provided information to pregnant people seeking abortion care, including information about types of abortion care, referrals to providers, and guidance and moral support.

16. Yellowhammer Fund's abortion fund worked to remove all barriers that stood in the way of our community members' ability to access abortion care. This meant that we regularly asked our community members what they needed and adapted our services and offerings to be responsive to their needs, including providing transportation, technology support, and language assistance. Transportation was often a significant barrier for our clients. Yellowhammer Fund staff and volunteers provided direct transportation for pregnant people who needed assistance traveling to their abortion appointments. Before *Dobbs*, I personally drove pregnant people to their abortion appointments in order to ensure that they were able to access care, and, on occasion, I personally drove pregnant people across state lines for abortion care.

17. Our fund also worked in collaboration with other abortion funds and abortion advocacy groups in Alabama and beyond. We worked together to ensure that anyone seeking an abortion had the resources and support they needed. We

regularly communicated with other funds and abortion advocacy groups to achieve our goals. We associated with abortion providers in Alabama to raise awareness about the fund's services and ensure that any pregnant person seeking abortion care could access them if needed.

18. Even as Yellowhammer Fund's programs evolved and grew, the abortion fund remained a core part of our mission. When we started the fund, we recognized that too many Alabamians—especially Black, Indigenous, and other people of color—were forced to carry pregnancies to term or delay abortion care because of financial and logistical barriers to accessing abortion care. The goal of the abortion fund was to eliminate those barriers so that people could access the care they needed. Additionally, by seeking to close barriers to abortion access, the fund communicated a message that barriers to healthcare are unnecessary and unjust. The fund also communicated to funding recipients that their reproductive healthcare decisions were valid, worthy, and deserving of respect. Through our work, the fund envisioned a society where no one would be prevented from accessing necessary medical care because of financial restrictions or residence.

19. By making abortion care more accessible for people in Alabama, the abortion fund helped to ensure that pregnant Alabamians had the resources and support they needed to make decisions that were best for themselves and their families.

20. Many of the people we served through the fund were people of color and low-income people from marginalized communities. Many of them already had children and were unable to care for more children. Our callers were also victims of intimate partner violence and many had unstable housing situations. Our callers were fearful of retaliation for accessing abortion care and they came to us for trustworthy and private support. The fund promoted the dignity of all people by reducing the stress of accessing necessary healthcare. Additionally, it sent a message of love and solidarity by upholding the rights and humanity of those who are most marginalized in our community.

**The Attorney General's Threats Have Frustrated Yellowhammer Fund's Mission**

21. Immediately after *Dobbs*, Alabama banned abortion with very limited exceptions. Yellowhammer Fund temporarily stopped operating our abortion fund that day.

22. Soon after *Dobbs*, I learned that Attorney General Steve Marshall threatened to prosecute abortion funds and advocacy organizations for helping Alabamians access abortion care in states where it is legal.

23. At the time of the Attorney General's threats, Yellowhammer Fund was based in Tuscaloosa. Because he mentioned groups that work in Tuscaloosa and Yellowhammer Fund was the only abortion fund based in Tuscaloosa, I understood the attorney general's threats to be specifically directed at Yellowhammer Fund.

24. Because the attorney general's threats continue to make us fearful of criminal prosecution, we have not resumed providing funds and logistical support to abortion seekers. Even though I believe that providing support to pregnant Alabamians traveling to other states for abortion care is a constitutionally protected activity, I am fearful of criminal prosecution against me, my staff, and my volunteers. Yellowhammer Fund will not resume providing abortion funding and support for out-of-state abortions until we can be assured that we will not face criminal prosecution for doing so.

25. Since the attorney general's threats, we have also stopped collaborating with other abortion funds and abortion advocacy groups because we are fearful that our association will be criminalized.

26. The attorney general's threats also forced Yellowhammer Fund to abandon our plans to expand the fund. Before the threats, we planned to hire new staff to help with transportation to states where abortion care is legal. When we were forced to close our fund, we had to cancel those plans.

27. Additionally, we had to make the difficult decision to eliminate the position of Healthcare Access Director. Previously, that role helped connect community members to abortion care by making referrals, connecting them with funding, and providing logistical and practical support. When we stopped operating our fund, we had to eliminate that position.

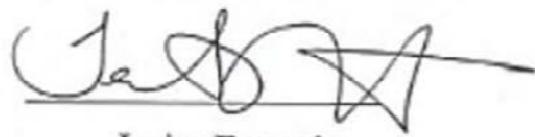
28. I know that the need for our abortion fund has only grown since the Defendant's threats. Yellowhammer Fund continues to receive calls from pregnant Alabamians seeking support. Because we no longer provide these services, we are forced to tell callers that we cannot help them.

29. We have waited for the attorney general to disavow his threats towards Yellowhammer Fund but he has not done so. As a result, we continue to fear prosecution and have not resumed the operations of our fund. We are also concerned that even sharing information about lawful abortion care and the states where abortion is legal could subject us to prosecution.

30. If we could be assured that providing assistance to help pregnant people in Alabama leave the state in search of lawful abortion health care could be done without prosecution, we would resume funding and providing support to pregnant Alabamians seeking abortion care in other states. Resuming the abortion fund's operations would allow us to continue our work destigmatizing abortion care and advancing the liberty and autonomy of our community members.

31. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8/25/2023



Jenice Fountain